IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1836 OF 1998

Smt.Femida Asgar Bohri .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr.V.P.Sawant for the petitioner

Mr.Y.D.Mullani, A.G.P. for respondent no.1 to 3

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 10TH SEPTEMBER, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. The petitioner is the owner in respect of land bearing Gut No.209 (part) admeasuring 59.1 Ares at Village Dongargaon, Taluka Maval, District Pune. The said land was an agricultural land.

2. On 28th February 1994 the petitioner purchased the said land from his original owner. Sometime in or about 9th December 1996, a notification was

issued under section 4 of the Land Acquisition Act which was published in Government Gazette on 19th December 1996. On 4th April 1997, a declaration under section 6 of the Land Acquisition Act was also issued. The land was sought to be acquired for public purpose viz. quarrying and utilising stones, mud or rubble extracted therefrom for Mumbai-Pune Express Highway.

3. Under the provisions of the said notification it was provided that the said acquisition is temporary because the said land was to be restored back to the petitioner once, the said construction of Mumbai-Pune Express Highway is completed. It is the case of the respondent that an award was passed on 28th January 1998. Under the said award the said Gut No.209 F admeasuring H 0.59.1 was acquired by the State Government and out of the said total land acquired the petitioners land was 0.59 hectares. On 11th March 1998 Section 12(2) notice was given by respondent no.2 to one Mr.Ganesh Vishnu Bhonde and others. It is the case of the respondent that though the notice was given to the

person interested in Gut No.209F they did not claim compensation till date.

4. We have heard the parties. The purpose for which the land was sought to be acquired was a temporary purpose for extracting stones, mud and rubble after utilising the same for construction of the Mumbai-Pune Express Highway.

5. In the present Writ Petition the petition was admitted and by interim order dated 17th April 1998 the respondents were restrained from a taking possession pursuant to s.12(2) notice being Exhibit (B) to the petition. The said public purpose to extract stones, mud and rubble for construction of the Mumbai-Pune Express Highway is now over. The said Mumbai-Pune Express Highway is already been fully constructed and commissioned and therefore the said public purpose does not survive at all.

6. In the aforesaid circumstances, we allow the present petition in terms of prayer clause (a) and (b). However,there shall be no order as to costs.